

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE BILL 2**

**Call to Order:** By **CHAIRMAN BOB KEENAN**, on April 20, 2001 at 8:00 A.M., in Room 317-A Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Bob Keenan, Chairman (R)  
Rep. Steve Vick, Chairman (R)  
Rep. Dave Lewis (R)  
Rep. Matt McCann (D)  
Sen. Linda Nelson (D)  
Sen. Tom Zook (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Clayton Schenck, Legislative Fiscal Analyst  
Taryn Purdy, Legislative Fiscal Division  
Paula Broadhurst, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.  
Transcribed by Prudence Gildroy

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action:

##### **Global Amendments:**

**Taryn Purdy, Legislative Fiscal Division**, advised that the amendment HB000247.atp passed the previous day funded interim studies and was put in the main interim studies line. It was the intent of the sponsor that it be in the line item on Health Care Access. She said it would be made a line item in the committee report.

The committee agreed without objection.

**CHAIRMAN KEENAN** advised he had discussed the affected impacts of his amendment HB000247.atp with agencies and that amendment

HB000248.atp would alter those impacts on the Department of Administration Personnel Division and the Department of Natural Resources Water Resources Division.

**Motion:** SEN. TOM ZOOK moved that **AMENDMENT HB000248.ATP BE ADOPTED. EXHIBIT (frs89hb0002a01)**

**REP. STEVE VICK** asked about the budget of the Consensus Council and how the \$150,000 fit into the budget.

**Amy Sassano, OBPP**, advised the budget was approximately \$50,000 a year in general fund and about \$150,000 to \$200,000 in state special revenue.

**SEN. ZOOK** noted part of those were private funds. **CHAIRMAN KEENAN** advised \$75,000 was general fund and \$150,000 was grants and matching funds. **Ms. Sassano** indicated the \$50,000 was general fund.

**REP. VICK** commented it was a substantial increase. **CHAIRMAN KEENAN** stated his amendment had caused a lot of conversation. His involvement with the Consensus Council was that he had spent four years trying to put them out of business. He later came to recognize the value of the council. The director indicated to him that the \$75,000 would be matched.

**SEN. LINDA NELSON** advised she had been approached about the amount of the increase and hoped they were not making a mistake. **CHAIRMAN KEENAN** indicated it would be his duty to make sure they weren't.

**REP. VICK** asked if it would be a one-time-only appropriation to the Consensus Council and **CHAIRMAN KEENAN** indicated it was not. **REP. VICK** and **SEN. NELSON** agreed a one-time-only would be a good idea.

**Vote:** Motion carried unanimously.

**Motion/Vote:** **REP. VICK** moved **TO MAKE THE APPROPRIATION TO THE CONSENSUS COUNCIL ONE-TIME-ONLY. Motion carried unanimously.**

**Motion:** **REP. VICK** moved that **AMENDMENT HB000250.ATP BE ADOPTED. EXHIBIT (frs89hb0002a02)**

**REP. VICK** advised the amendment would reverse part of an amendment passed the previous day which took money from the Department of Agriculture to fund the dues for the Council of State Government. The dues were discussed extensively in House

Appropriations Subcommittee. He said there were only two or three cases where only half dues were paid and this was one. Half dues would still be paid but not through a reduction in the Agricultural Sciences Division in the Department of Agriculture. He explained the program that was cut dealt with organic farmers. He understood that there were private certification companies but because of a change in federal law they would not longer be allowed to certify and a state certification was needed. He felt organic farming was an important niche to cultivate.

**Ralph Peck, Department of Agriculture**, supported **REP. VICK's** remarks.

**SEN. TOM BECK** advised he understood what **REP. VICK** was saying about half dues, but that CSG West was one of the tools needed in the future. He noted he was a termed out legislator, but with the energy crisis he did not see how half dues could be paid with the expectation of full benefits. His felt that if the full dues weren't funded that it should all be given to organic farming.

**SEN. NELSON** asked about other dues. **REP. VICK** said there might be others as far as the legislature was concerned, but he was not referring to those. He noted that the governor's office paid half dues to the Western Governor's Association and the Board of Public Education paid half dues to their organization. **SEN. NELSON** wondered if full services were received when half dues were paid and why half dues would be accepted. **REP. VICK** contended that when he first started in the legislature, no dues were paid. He understood that the organization wanted participation and gladly accepted half dues. He favored paying dues. **CHAIRMAN KEENAN** remembered being in arrears with NCSL in the 1997 session. They split the difference and had since become full paying members.

**SEN. ZOOK** thought **SEN. BECK** had made a good point. He said he had never favored paying dues. He recognized the state was well served when **SEN. BILL TASH**, former **SEN. CHUCK SWYSGOOD** and **SEN. BECK** attended meetings concerning water issues. He felt the dues should be fully funded or not funded at all. He thought the money could be found somewhere else for organic farming. He said he would resist the amendment.

**SEN. NELSON** spoke in favor of the amendment and noted it was not because she minded paying the dues. She felt the dues needed to be paid. She described visiting Taiwan, China, Japan and Hong Kong and reported that their main interest was in organics. She felt there would be a big market for organics in the future and that the position in the Department of Agriculture needed to be funded.

**Vote:** Motion passed 5-1 with Zook voting no.

**Section A:**

**CHAIRMAN KEENAN** advised that amendments HB000205.agp **EXHIBIT(frs89hb0002a03)** and HB000251.atp **EXHIBIT(frs89hb0002a04)** were companion amendments.

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000205.AGP BE ADOPTED.**

**REP. DAVE LEWIS** expressed concern with the amendment and wanted to consider alternatives.

**CHAIRMAN KEENAN** withdrew his amendment. He asked if there was the same concern on HB000251.atp and **REP. LEWIS** indicated yes.

**CHAIRMAN KEENAN** spoke to amendment HB000234.asc. **EXHIBIT(frs89hb0002a05)** He advised that he had an e-mail from **Greg Petesch, Legislative Services Division**, regarding whether an asbestos court would be necessary given recent action by W. R. Grace. **Mr. Petesch** replied that the parties wanted the court alive because the plaintiffs intended to allege fraud on the part of W. R. Grace in declaring bankruptcy. If that was successful, the court would be even more necessary.

**Motion/Vote:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000234.ASC BE ADOPTED. Motion carried unanimously.**

**CHAIRMAN KEENAN** advised that amendment HB000261.agd had been looked at the previous day with some discussion of making the amendment restricted.

**SEN. JOHN COBB** stated a preference for making the amendment restricted. **SEN. ZOOK** noted the SB 512 was on the floor for second reading. He felt action should be postponed.

**CHAIRMAN KEENAN** withdrew his motion.

**Don Hoffman, Department of Revenue**, indicated the amendment was a slightly different version of an amendment from the previous day. He noted it was a moving target and that action should be postponed.

**REP. MATT MCCANN** why five FTE were needed. **Mr. Hoffman** advised that SB 512 would impose an electrical energy excise tax on the generation of electricity in Montana. It would be a new tax never imposed in Montana. The staffing was being asked for to

defend the tax, to understand how the tax would work in the industry, how contracts worked in the industry, how electricity moved back and forth and to make sure the appropriate amount of tax was being paid. **REP. MCCANN** acknowledged the need for the attorney and researcher. **Mr. Hoffman** advised the auditors would audit the contracts and payments of the tax. **REP. MCCANN** questioned the need for three auditors. **Mr. Hoffman** admitted the tax would only apply to a handful of companies, but there would be a significant amount of money generated. The tax would be reported and paid on a monthly basis. There would be a significant compliance effort if the bill passed. **REP. MCCANN** did not know if the amount generated would justify significant FTE.

**CHAIRMAN KEENAN** hoped that with the contingency language that the amendment could be acted upon. He noted SB 176 and SB 339 were tied to HB 124. He had been hoping that HB 2 would be on the floor in the afternoon session. **Clayton Schenck, Legislative Fiscal Analyst**, advised that the only way would be for contingency language for bills that were outstanding done in consultation with the budget director. **CHAIRMAN KEENAN** noted that the rules could be suspended if necessary. **SEN. ZOOK** advised he could not see any particular advantage to rushing the bill through. **REP. VICK** indicated it was his understanding that on the 90<sup>th</sup> day the rules did not have to be suspended.

#### Global Amendments:

**Ms. Purdy** advised that there would be some changes and an addition to amendment HB000262.agd. **EXHIBIT(frs89hb0002a06)** She explained the amendment would implement HB 124. The Judiciary Branch would increase by \$800,000 in conjunction with SB 179 which dealt with the assumption of district courts. That would be a biennial appropriation. The amendment would take away the Department of Revenue's distribution to local governments in HB 2. That would be a reduction of almost \$55 million each year. The Appellate Defender funding would change from state special revenue to general fund for an additional general fund of \$178,901 and a corresponding reduction in state special revenue. There would be a major funding switch in DPHHS of almost \$14 million between federal fund and state special revenue. Also, there would be an addition of general fund to pay a portion of pay plan costs because of the difficulty of going back and switching the funding in HB 13. The Department of Justice had programming costs of almost \$6000 and OPI had an additional \$37,500. **{Tape : 1; Side : B}** There would be a funding switch from state special revenue to general fund in the Montana University System. There would be a reduction in HB 2 of almost \$40 million per year in general fund.

**Discussion:**

**REP. MCCANN** asked about the impact to the general fund in the biennium. **Chuck Swysgood, Budget Director, OBPP**, advised there would be a positive impact of \$12.6 million the first year of the biennium and \$1.4 million cost to the general fund the second year of the biennium. The cost would continue to FY 2011 at a graduated rate. The total cost over the period of time would be about \$21 million general fund. The net gain after adjustments would be about \$10 million. **REP. MCCANN** asked why there would be a positive impact in the current biennium. **Director Swysgood** indicated it was due to one-time A-accruals.

**REP. VICK** said he understood there would be one-time A-accruals but asked about the costs. **Director Swysgood** said the biggest share was due to the A-accruals of a couple of accounts. There would also be some minor income. The A-accruals would be lost and the negative impact would be due to the growth-rate factor that was applied. **CHAIRMAN KEENAN** advised the gambling and financial institutions would have a positive impact of \$14.4 million.

**REP. LEWIS** asked for a comment from the Department of Justice regarding computer costs. **Doug Booker, Department of Justice**, advised the programming costs were to track the number of vehicles for the Department of Revenue. **REP. LEWIS** asked if they were counting cars currently. **Mr. Booker** indicated there would be more involved. He offered to get the details for **REP. LEWIS**.

**Motion/Vote:** **CHAIRMAN KEENAN** moved **AMENDMENT HB000262.AGD WITH ADJUSTMENTS**. Motion carried unanimously.

**Section B:**

**CHAIRMAN KEENAN** advised that #4 in the insert of amendment HB000271.apg **EXHIBIT(frs89hb0002a07)** should have been for FY 2001.

**Pat Gervais, Legislative Fiscal Division**, explained that the amendment would specify conditions for the Office of Budget and Program Planning to reduce funding in TANF funded items if certain circumstances existed.

**Hank Hudson, DPHHS**, advised the amendment would clarify the way the TANF block grant was managed. First, the required cash benefits would be paid to those eligible. The remaining money in the block grant would go to projects laid out by the legislature or for other uses of TANF money. If the cash benefit amount

increased, the size of the projects would have to be adjusted.

**CHAIRMAN KEENAN** asked about the negotiations with the seven tribes. **Mr. Hudson** believed those had been taken care of. The department withdrew an amendment the tribes were not comfortable with. There had been conversations with the federal agency to resolve the issue of the two tribes that had their own plan.

**CHAIRMAN KEENAN** asked if the five tribes were okay with the other two tribes being outside the system. **Mr. Hudson** indicated they were and that a process had been agreed upon to get clarification from the federal government. He expected all seven tribes to participate in the FAIM IIR project.

**REP. MCCANN** asked why it would be okay with the other five tribes that the two that were on their own would share with the other five. **Mr. Hudson** said he could not speak for the tribes but guessed it would be important to the tribes to have a unified approach.

**SEN. NELSON** asked which were the two tribes and **Mr. Hudson** indicated they were the Salish-Kootenai and Fort Belknap Tribes.

**CHAIRMAN KEENAN** asked about SB 339 and the Big Bill. **Mr. Hudson** said that SB 339 had coordination language in it contingent on the passage of 124. The only part of SB 339 that remained was the language that described the role of county commissioners in their local programs.

**REP. LEWIS** noted the amendment was consistent with subcommittee action.

**Vote:** Motion carried unanimously.

**Section C:**

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000242.ATY BE ADOPTED. EXHIBIT(frs89hb0002a08)**

**SEN. ZOOK** asked if the amendment went to the "donut bill" and asked about the status of that. **CHAIRMAN KEENAN** noted that free conference committee report #7 was on the board.

The committee agreed to wait on the amendment and **CHAIRMAN KEENAN** withdrew his motion.

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000250.AGH BE ADOPTED. EXHIBIT(frs89hb0002a09)**

**SEN. COBB** advised the amendment would be contingent upon passage of SB 506.

**Gary Hamel, Legislative Fiscal Division**, advised the amendment would appropriate \$60,000 each year of the biennium to pay alternative energy revolving loan administration costs associated with the implementation of SB 506.

**REP. MCCANN** asked **SEN. COBB** asked about the state special revenue. **SEN. COBB** advised the money was from the air quality pollution fines. The bill would give restricted spending authority for 10 percent.

**CHAIRMAN KEENAN** withdrew his motion.

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000251.AGH BE ADOPTED. EXHIBIT(frs89hb0002a10)**

**CHAIRMAN KEENAN** advised the amendment dealt with fish planting in Echo Lake. The lake had a number of camps around it including "Camp Make-A-Wish". The appropriation had been dealt with in free conference committee for the past three sessions. The funding would be 1/4 state special and 3/4 federal special revenue.

**SEN. ZOOK** thought it was a good deal for kids.

**Vote:** Motion **carried unanimously.**

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000252.AGH BE ADOPTED. EXHIBIT(frs89hb0002a11)**

**Ms. Purdy** explained the amendment would create a fourth tier on the use of the excess over the \$100 million in the RIT trust fund balance. There were three uses of that balance in HB 2 and one in SB 326. The fourth tier could only be spent after the other three functions were funded. According to current estimates, the money would be gone before it got to the first tier.

**Vote:** Motion **carried unanimously.**

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000219.AJS BE ADOPTED. EXHIBIT(frs89hb0002a12)**

**Terry Johnson, Legislative Fiscal Division**, advised that in terms of SB 495, there was an appropriation from the permanent trust account to the Department of Natural Resources which would transfer up to \$75 million from the permanent trust account to the guarantee account. The guarantee account per HB 41 was a



sub-account within the general fund account. The \$75 million that would be transferred into the sub-account was to purchase the mineral rights that belonged to the trust and legacy account.

**REP. MCCANN** asked why it was up to \$75 million. **Mr. Johnson** advised that in terms of SB 495, it was estimated through the fiscal note that the purchase price of the mineral rights would be somewhere in the range of \$37 million. Just in case the cost of purchasing the rights was higher, the appropriation level was set at \$75,000 to assure there was ample authority to purchase those rights. The amendment was carrying the \$75 million over to be incorporated into HB 2.

**Vote:** Motion **carried 5-1 with Vick voting no.**

**Section D:**

**CHAIRMAN KEENAN** explained that the free conference committee report was accepted in the Senate and the House.

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000240.ATY BE ADOPTED. EXHIBIT(frs89hb0002a13)**

**REP. VICK** asked if the amendment took into account the free conference committee action.

**Ingrid Childress, Department of Labor and Industry,** said she understood the free conference committee agreed and HB 322 passed both houses. She understood that \$150,000 would go from the Resource Indemnity Tax in the Department of Labor and Industry to implement the provisions of SB 322.

**REP. VICK** noted that he thought the bill in its current form took private donations and wondered if that was not to replace the RIT but was in addition to it. **Ms. Childress** said that was correct.

**SEN. ZOOK** advised that in caucus the previous day, **SEN. MIKE TAYLOR** read a letter from **SEN. CONRAD BURNS** who had come forth with a sizeable amount of money directed at helping the unemployed. He favored waiting on the amendment.

**CHAIRMAN KEENAN** withdrew his motion.

**REP. MCCANN** noted there was a battle over putting the RIT money into the program. He wondered what could be done in the event there were additional questions about replacing the funds and if it would have to go back into conference committee.

**SEN. NELSON** recalled talking to **John Tubbs, DNRC**, and that the \$150,000 would be taken from the Orphan Share. Any private funds would be in addition to the \$150,000.

**Motion:** **SEN. NELSON** moved that **AMENDMENT HB000274.ALT BE ADOPTED. EXHIBIT (frs89hb0002a14)**

**Larry Fasbender, Deputy Director, Department of Justice**, advised that HB 359 was put back in its original form in conference committee and that was the way the bill passed. The legislation would increase the number of DNA samples taken from people who commit felonies. The amendment dealt with the costs that would be incurred.

**REP. VICK** commented that the fees charged for the samples could not exceed the actual cost. He assumed if the estimated samples were not collected, the money generated for the general fund would not be as much. He asked if the amount spent would be tied to the amount of tests done. **Mr. Fasbender** advised that fees were not collected from most felons. **REP. VICK** asked how much was made from the fees. **Mr. Fasbender** said that was speculative. He said he could check with the Forensics Lab to see if there was historical information.

**SEN. NELSON** thought it was important to fund the bill. **{Tape : 2; Side : A}**

**Vote:** Motion carried 5-1 with Vick voting no.

**SEN. ZOOK** suggested that the department could be allowed to retain the fees that they could collect and fund it that way but he did not advise doing that.

**Section E:**

**Motion:** **CHAIRMAN KEENAN** moved that **AMENDMENT HB000220.AJS BE ADOPTED. EXHIBIT (frs89hb0002a15)**

**Jim Standaert, Legislative Fiscal Division**, advised SB 495 had been signed by the governor but there was the potential for a lawsuit. The amendment would provide contingency language in HB 121 and SB 390 to protect against SB 495 being enjoined. HB 121 would spend \$25.6 million in the schedules. SB 390 would spend another \$5 million which was put in HB 2 in FY 2003. If SB 495 was enjoined before April 1, 2002, then the amendment to spend the money in the flex account would be void. If amendment HB000220.ajs did not pass, there was contingency in HB 121 that if SB 495 was enjoined the spending in the schedules would only be \$20 million. SB 495 would produce about \$10 million in

revenue. If revenue was lost, and HB 121 spent \$25 million then \$10 million would have to be taken out of the ending fund balance to get back to what HB 121 would spend. The contingency language would void the problem of the extra \$5 million in HB 121 in the flex account.

**Vote:** Motion **carried unanimously.**

**Motion:** REP. MCCANN moved that **AMENDMENT HB000278.APJ BE ADOPTED. EXHIBIT (frs89hb0002a16)**

REP. MCCANN advised the amendment would appropriate \$500,000 in the biennium for non-beneficiary students attending tribal colleges. He explained that if there was a reversion in the university system that the reversion dollars would pay for the amendment.

**Pam Joehler, Legislative Fiscal Division,** advised that the university system was anticipated to revert approximately \$1.1 million in the current biennium. She had a conversation with **Terry Johnson** as to whether those were included in the current reversion estimate. There was approximately \$1 million already included in the general fund reversion estimate. There was only about \$100,000 of new general fund that was not included in the reversion amount. The \$500,000 would take about \$400,000 general fund.

REP. MCCANN said the reversion with the exception of \$100,000 would be reflected in the ending fund balance and **Ms. Joehler** confirmed that.

**Vote:** Motion **failed 3-3 with Lewis, Vick and Zook voting no.**

**Motion:** REP. MCCANN moved **THAT \$100,000 BE APPROPRIATED.**

REP. MCCANN advised that amount would do some good for Tribal colleges. He noted the Salish-Kootenai college had the majority of non-beneficiary students.

SEN. NELSON asked how the money would be split up. REP. MCCANN advised there would be a proportional split. **Ms. Joehler** indicated that current statute required that the funds be allocated proportionately by enrollment.

**Vote:** Motion **carried 5-1 with Vick voting no.**

**ADJOURNMENT**

Adjournment: 10:00 A.M.

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SEN. BOB KEENAN, Chairman

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PAULA BROADHURST, Secretary

BK/PB/PG

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**EXHIBIT**(frs89hb0002aad)